



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

MAR 11 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5939 4847

Richard Slingerland, Village Manager
Village of Mamaroneck
123 Mamaroneck Avenue
P.O. Box 369
Mamaroneck, New York 10543

Re: Administrative Order CWA-02-2011-3022
Village of Mamaroneck
SPDES Permit No. NYR20A233

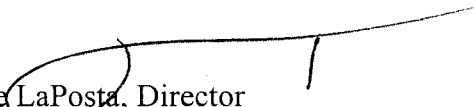
Dear Mr. Slingerland:

The United States Environmental Protection Agency (EPA), Region 2, has made a finding that the above-named facility, Village of Mamaroneck ("Mamaroneck"), is in violation of the Clean Water Act (33 U.S.C. § 1251 et seq) ("the Act") for effluent violations as described in the findings to this Order. Enclosed are two (2) originals of this ORDER, issued pursuant to Sections 309 and 308 of the Act, which detail the findings.

Please acknowledge receipt of this ORDER on one of the originals and return it by mail in the enclosed envelope. Failure to comply with the enclosed ORDER may subject the facility to civil/criminal penalties pursuant to Section 309 of the Act. Failure to comply with this ORDER shall also subject the facility to ineligibility for participation in work associated with Federal contracts, grants or loans.

If you have any questions regarding this Order, please contact Mr. Larry Gaugler, P.E., Acting Team Leader, NPDES Team, at (212) 637-3950 or Mr. Jerry Ciotola, Environmental Engineer, at (212) 637-4223.

Sincerely,


Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

cc: Joe DiMura, P.E., Director, Bureau of Water Compliance Programs, NYSDEC
Patrick Ferracane, Env. Program Specialist, Region 3, NYSDEC

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

Village of Mamaroneck
Village Hall
123 Mamaroneck Avenue
Mamaroneck, NY 10543

SPDES Permit No. NYR20A233

Respondent

Administrative Order for Compliance
pursuant to Sections 309(a) of the Clean
Water Act, 33 U.S.C. § 1319

ADMINISTRATIVE ORDER

CWA-02-2011-3022

STATUTORY AUTHORITY

The following Findings of Violation and Order for Compliance ("Order") are made and issued pursuant to Sections 308(a) and 309(a) of the Clean Water Act ("CWA"), 33 U.S.C. §§ 1318(a) and 1319(a). This Authority has been delegated by the Administrator of the United States Environmental Protection Agency ("EPA") to the Regional Administrator, EPA Region 2 and further delegated to the Director of the Division of Enforcement and Compliance Assistance, Region 2, EPA.

1. Section 301(a) of the CWA, 33 U.S.C. § 1311 (a), makes it unlawful for any person to discharge any pollutant from a point source to waters of the United States, except, inter alia, with the authorization of, and in compliance with, a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
2. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. Any such discharge is subject to all applicable requirements of the CWA, and regulations promulgated there under, as expressed in the specific terms and conditions prescribed in the applicable permit. Regulations implementing the NPDES permit program under the CWA include, but are not limited to, 40 CFR Parts 122 and 403.
3. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), sets forth requirements for the issuance of NPDES permits for the discharge of storm water. Section 402(p) (2) (D) of the CWA, 33 U.S.C. § 1342(p) (2) (D), requires an NPDES permit to be issued for the discharge of storm water from a Municipal Separate Storm Sewer ("MS4") serving populations of 100,000 or more but less than 250,000.

4. Section 402(p)(3)(B) of the CWA, 33 U.S.C. § 1342(p)(3)(B), requires that NPDES permits for discharges from a MS4 shall include a requirement to effectively prohibit non-storm water discharges into the storm sewers and shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.
5. Pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p), EPA promulgated regulations at 40 C.F.R. § 122.26 setting forth the NPDES permit requirements for storm water discharges, including the following:
 - 40 C.F.R. § 122.26(b)(16)(ii) defines "small municipal separate storm sewer system," in part, as not defined as "large" or "medium" municipal separate storm sewer systems;
 - 40 C.F.R. § 122.26(b)(7)(i) defines "medium municipal separate storm sewer system," in part, as being located in an incorporated place with a population of 100,000 or more but less than 250,000;
 - 40 C.F.R. §§ 122.26(a)(1)(iv) and 122.26(d) require the operator of a discharge from a medium MS4 to apply for a jurisdiction-wide or system-wide permit;
 - 40 C.F.R. § 122.26(b)(3) defines "incorporated place," in part, as a city, town, township, or village that is incorporated under the laws of the State in which it is located.
6. The New York State Department of Environmental Conservation ("NYSDEC") is the agency with the authority to administer the federal NPDES program in New York pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. EPA maintains concurrent enforcement authority with authorized states for violations of the CWA. Additionally, under the authority granted to the NYSDEC by the EPA under Section 402(b) of the CWA, 33 U.S.C. § 1342(b), a State Pollutant Discharge Elimination System ("SPDES") permit is required to be issued to facilities by the NYSDEC for the discharge of pollutants from said facilities from a point source to a navigable water of the United States.

FINDINGS

1. The Village of Mamaroneck is a municipal corporation chartered under the laws of the State of New York, and as such, the Permittee is a "person," as that term is defined in Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2, and is an "incorporated place" as that term is defined in 40 C.F.R. § 122.26(b)(3).
2. At all times relevant to this Order, Permittee owned or operated the Municipal Separate Storm Sewer ("MS4"), located within the corporate boundary of the Village of Mamaroneck, Westchester County, New York and was, therefore, an "owner or operator" within the meaning of 40 C.F.R. § 122.2.
3. At all times relevant to this Order, the MS4 was a "point source" for the "discharge" of "pollutants," as defined by Section 502 of the CWA, 33 U.S.C. § 1362. The MS4 discharges storm water to receiving waters of all areas, except agricultural lands, within the corporate

boundaries of the Village of Mamaroneck, served by an MS4 owned or operated by Permittee. The Long Island Sound and other receiving waters are considered "waters of the United States" within the meaning of Section 502 of the CWA, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.

4. Pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p), the NYSDEC issued General Permit GP-02-02 on January 8, 2003. The Village of Mamaroneck requested and was granted authorization by NYSDEC under GP-02-02 thru the issuance of SPDES Permit NYR20A233 for the MS4 ("the MS4 permit"). The MS4 permit expired on January 8, 2008 and was administratively extended under GP-08-001 thru April 30, 2010. The Village of Mamaroneck requested and was granted authorization under GP-0-10-002 on June 01, 2010. General Permit GP-0-10-002 expires on April 30, 2015. At all relevant times, the Village of Mamaroneck was authorized to discharge from all portions of the MS4 owned or operated by the Village of Mamaroneck to waters of the United States, only in accordance with Permittee's Storm Water Management Program, specific terms and conditions of the MS4 permit, and associated Storm Water Discharge Regulations set forth in 40 C.F.R. § 122.26.
5. The Village of Mamaroneck MS4 discharges storm water into one or more receiving waters that appear on the 303(d) list or for which a Total Maximum Daily Load ("TMDL") has been established. Mamaroneck Harbor has been designated as an impaired water body with floatables and pathogens the primary pollutants of concern. Therefore, Mamaroneck is required to meet additional improvement and minimum control measures pursuant to Part IX C. Pathogen Impaired Watershed MS4 for New York State's General Permit for Stormwater Discharges from MS4s (GP-0-10-002).
6. The NYSDEC GP-0-10-002 SPDES General Permit for Storm Water Dischargers MS4 includes all municipal separate storm sewers within the meaning of 40 C.F.R. § 122.26(b)(16).
7. The New York State Department of Environmental Conservation required that Permittees fully implement a Storm Water Management Program ("SWMP") by January 8, 2008. As part of a Stormwater Management Program, permittees under GP-02-02 were required to develop, implement and enforce a program to detect and eliminate illicit discharges under Illicit Discharge Detection and Elimination (Part IV.3 of the permit). The Village of Mamaroneck developed an initial SWMP prior to March 10, 2003, but failed to fully implement the plan by the January 8, 2008 deadline, and implement a SWMP ensuring that future discharges do not contribute to a violation of applicable water quality standards.
8. GP-02-02 expired on January 8, 2008. The Village of Mamaroneck is required to continue permit coverage under GP-0-10-002, which became effective May 1, 2008, and expires April 30, 2010. In accordance with Part II.A. of the new permit, permittees authorized under GP-02-02 were required to develop an initial SWMP prior to March 10, 2003, and fully implement the SWMP no later than January 8, 2008. Under GP-02-02, permittees were also required to make steady progress toward full implementation of their SWMP.
9. On September 19, 26 and October 17, 2007, EPA conducted MS4 compliance inspections of the Village of Mamaroneck pursuant to Section 308 of the CWA, 33 U.S.C. § 1318 (hereafter the "MS4 inspection"). Based on these inspections, EPA identified discharges from the MS4 which appeared to contain sanitary sewage. As a result of those observations, it was determined that a follow-up sampling inspection should be performed.

10. On September 30, 2010, EPA conducted wet weather sampling inspections at outfalls and catch basins within the Village of Mamaroneck, specifically sampling for fecal coliform and total coliform. The results of that sampling were used to determine whether storm sewer discharges are contributing to water quality impairments and to determine if coliform levels in the storm sewer discharges are substantially higher than water quality standards or ambient levels. Sampling verified that outfalls at the locations identified were discharging in excess of the NY Water Quality Standard of either 10,000 MPN/100ml for total coliform, and/or 2,000 MPN/100ml for fecal coliform. In February 2011, EPA revisited and field verified (3) three sampling locations where a question arose as to Town/Village jurisdiction. After GPS verification, and review of current mapping, a determination was made that the following sites are within Village limits.

The result of EPA's sampling locations are listed below:

September 30, 2010 Sampling

<u>Location</u>	<u>Coliform</u> (MPN/100ml)	
	<u>Fecal</u>	<u>Total</u>
Fenimore & I-95	80,000 MPN/100ml	80,000 MPN/100ml
Confluence of Mamaroneck River & Harbor	24,000 MPN/100ml	50,000 MPN/100ml
Confluence of Sheldrake and Mamaroneck Rivers	30,000 MPN/100ml	220,000 MPN/100ml

11. The samplings conducted by EPA on September 30, 2010, indicated that water quality standards for total and fecal coliforms were exceeded at all locations, supporting evidence that there is a high potential for illicit sanitary connections to storm sewers which discharge into Mamaroneck Harbor.
12. Based upon the field observations conducted by EPA in September and October 2007, and sampling inspections conducted in September 2010 (MS4 Sampling Inspection Report issued by the EPA Monitoring and Assessment Branch on November 9, 2010), EPA determined that the Village of Mamaroneck was in noncompliance with the MS4 permit by failing to fully implement a comprehensive illicit discharge detection and elimination program required by NYSDEC by January 8, 2008, as part of its SWMP.
13. The Village of Mamaroneck's failure to comply fully with the requirements of the MS4 permit are violations of Section 301(a) of the CWA, 33 U.S.C. § 1301(a), as well as the permit issued under Section 402 of the CWA, 33 U.S.C. § 1342.
14. Appendix 2 of the New York State SPDES General Permit for Stormwater Discharge from MS4s identified Mamaroneck Harbor as an impaired water-body for pathogens and floatables. The Village of Mamaroneck MS4 discharges to Mamaroneck Harbor contribute to violations of applicable water quality standards for pathogens, a pollutant of concern.
15. The Village of Mamaroneck failed to develop, implement, enforce and effectively prohibit illicit discharges into the storm sewer system and implement appropriate enforcement procedures as required under Permit Number GP-02-02, GP-0-08-002, and GP-0-10-002, the current New

York State Department of Environmental Protection SPDES General Permit for Stormwater Discharges from MS4s.

16. Among other requirements of the Illicit Discharge Detection and Elimination ("IDDE")-SWMP Development/Implementation, Part VII.A.3. of the NYSDEC SPDES General Permit GP-0-10-002 imposes certain required Storm Water Management Program requirements authorized under GP-02-02. The Village of Mamaroneck failed to implement paragraphs f. (prohibit illicit discharges into the MS4) and g. (develop and implement a program to detect and address non-stormwater discharges).
17. In consideration of the above Findings, and pursuant to the provisions of Sections 308 and 309(a) of the CWA, 33 U.S.C. § 1318 and § 1319(a), EPA has determined that compliance with the following requirements is reasonable.

ORDERED PROVISIONS

Based on the Findings of Violation set forth above, and pursuant to the authority of Sections 308(a) and 309(a) of the CWA, 33 U.S.C. §§ 1318(a) and 1319(a), Permittee is hereby ORDERED to take the actions described below.

1. Immediately upon receipt of the original copies of this Order, a responsible official of the Village of Mamaroneck shall complete and sign the acknowledgment of receipt of one of the originals of the Order and return said original to the Team Leader, NPDES Team, Water Compliance Branch, Division of Enforcement and Compliance Assistance, in the enclosed envelope to the address listed below.
2. The Village of Mamaroneck shall prepare, implement and enforce a Stormwater Management Program pursuant to the requirements of Part IV of the NY State DEC SPDES General Permit for Stormwater Discharges from MS4s (GP-0-10-002). The Stormwater Management Program shall specifically address and identify illicit connections to minimize discharges and sources of pathogens and floatables in the Mamaroneck storm system.
3. The Village of Mamaroneck shall continue to conduct wet weather and dry weather sampling and a track down program to identify and eliminate illicit connections and other potential sources of pathogens to the MS4.
4. The Village of Mamaroneck shall complete the following items in accordance with the schedule listed below:

<u>Item</u>	<u>Completion</u>
Submit to EPA and NYSDEC a complete Illicit Detection and Elimination Plan, approvable by EPA and NYSDEC, which will detect and identify illicit discharges within the storm sewer system tributary to the "locations" identified in the Findings section of this Administrative Order.	May 31, 2011

Submit a complete Engineering Plan for approval by EPA and NYSDEC for the elimination of illicit discharges identified by the Illicit Detection and Elimination Plan, including a schedule for the completion of the corrective measures necessary to eliminate illicit discharges within the storm sewer system tributary to the "locations" identified in the Findings section of this Administrative Order.

Within 90 days of approval by EPA and NYSDEC of the Illicit Discharge Detection and Elimination Plan

Complete all work necessary to eliminate illicit sanitary connections tributary to the "locations" identified in the Findings Section of this Administrative Order.

In accordance with the schedule in the approved by EPA and NYSDEC Engineering Plan

Complete outfall sampling to verify elimination of illicit sanitary connections to storm sewer system.

Within 6 months of the completion of all corrective measures identified in the approved Engineering Plan

Submit quarterly progress reports to EPA and NYSDEC outlining all activities undertaken, results of verification sampling and costs associated with compliance with this Order.

Quarterly, starting May 31, 2011 and ending February 28, 2014

Submit final report to EPA and NYSDEC summarizing all activities taken to come into compliance.

March 31, 2014

5. Any documents to be submitted by the Village of Mamaroneck as part of this Order shall be sent by certified mail or its equivalent and shall be signed by an authorized representative of the respective entity (see 40 CFR § 122.22), and shall include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

6. The Village of Mamaroneck shall continue to submit all reports required by the SPDES General Permit for Storm Water Discharges from MS4s.

7. All information required to be submitted by this Order shall be sent by certified mail or its equivalent to the following addresses:

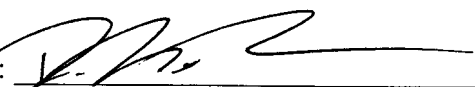
Larry Gaugler, P.E., Acting Team Leader
NPDES Team
Division of Enforcement and Compliance Assistance
290 Broadway, 20th Floor
New York, NY 10007-1866

Joseph DiMura, P.E.
Director, Bureau of Water Compliance Programs
Division of Water
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-3506


GENERAL PROVISIONS

1. This order does not constitute a waiver from compliance with or a modification of the effective terms and conditions of the Act, its implementing regulations, and the MS4 General Permit, which remain in full force and effect. This ORDER is an enforcement action taken by EPA to ensure swift compliance with the Act. Issuance of an Administrative Order shall not be deemed an election by EPA to forgo any civil or criminal actions that would seek penalties, fines or other appropriate relief under the Act.
2. Notice is hereby given that violation of, or failure to comply with, any of the provisions of the foregoing Order may subject Respondent to (1) civil penalties up to \$37,500 per day for each violation, pursuant to Section 309(d) of the Act, 33 U.S.C. § 1319(d); or (2) civil action in federal court for injunctive relief, pursuant to Section 309(b) of the Act, 33 U.S.C. § 1319(b).
3. The terms of this Order shall be effective and enforceable against Respondent upon the date of execution by the Director, Division of Enforcement and Compliance Assistance.

Dated: 3/11/11

Signed: 

Dore LaPosta, Director

 Division of Enforcement and Compliance Assistance

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

Village of Mamaroneck
Village Hall
123 Mamaroneck Avenue
Mamaroneck, NY 10543

SPDES Permit No. NYR20A233

Respondent

Administrative Order for Compliance pursuant
to Sections 309(a) of the Clean Water Act, 33
U.S.C. §1319

ADMINISTRATIVE ORDER

CWA-02-2011-3022

**ACKNOWLEDGMENT OF RECEIPT OF
ADMINISTRATIVE COMPLIANCE ORDER**

I, _____, an official of Village of Mamaroneck

with the title of, _____, do hereby acknowledge the receipt of copy of the
ADMINISTRATIVE ORDER, Village of Mamaroneck **CWA-02-2011-3022**.

DATE: _____

SIGNED: _____